IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

CHRISTINE RAMIREZ, Plaintiff,)	
v.) Civil No. 3:17ev001 (HE	H)
ANDREW M. SAUL, ¹ Commissioner of Social Security, Defendant.)	
Defendant.		

REPORT AND RECOMMENDATION

This matter comes before the Court pursuant to 28 U.S.C. § 636(b)(1)(B) on Plaintiff's Motion to Dismiss Action Pursuant to Federal Rule of Procedure 41(a)(2) ("Pl.'s Mot.") (ECF No. 6). For the following reasons, the Court recommends that this case be DISMISSED WITH PREJUDICE.

On January 2, 2017, Christine Ramirez ("Plaintiff") filed her Complaint (ECF No. 1-1) pursuant to 42 U.S.C. § 1383(c)(3) regarding the Social Security Administration's denial of her Social Security Benefits. Plaintiff issued a summons to the Commissioner ("Defendant") on January 4, 2017 (ECF No. 3). To date, no motions or other submissions have been filed. On October 2, 2019, the Court issued an Order to Show Cause as to why Plaintiff's lawsuit should not be dismissed and the case closed for failure to prosecute. (ECF No. 4.) In response, Plaintiff requested that this matter be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2).

On June 4, 2019, the United States Senate confirmed Andrew M. Saul to a six-year term as the Commissioner of Social Security. Pursuant to Federal Rule of Civil Procedure 25(d), Commissioner Saul should be substituted for former Acting Commissioner Carolyn W. Colvin as the defendant in this matter.

(Pl.'s Resp. to Order to Show Cause ("Pl.'s Resp.") (ECF No. 5.) at 1-2.) Plaintiff subsequently filed the instant motion, formally moving to dismiss the matter pursuant to Rule 41(a)(2). (Pl.'s Mot. at 1-2.)

Pursuant to Federal Rule of Civil Procedure 41(a)(2), "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). Accordingly, because Plaintiff has requested that the matter be dismissed, the Court recommends dismissal. Further, the Court finds that the case should be dismissed with prejudice, because of the time that has elapsed without any prosecution and Plaintiff's documented understanding that dismissal would bar her from future claims of disability during the relevant time period. (Pl.'s Resp. at 1-2; Pl.'s Mot. at 1-2.)

Let the Clerk forward a copy of this Report and Recommendation to Senior United States

District Judge Henry E. Hudson and all counsel of record.

NOTICE TO PARTIES

Failure to file written objections to the proposed findings, conclusions and recommendations of the undersigned contained in the foregoing report within fourteen (14) days after being served with a copy of this report may result in the waiver of any right to a de novo review of the determinations contained in the report and such failure shall bar you from attacking on appeal the findings and conclusions accepted and adopted by Judge Young except upon grounds of plain error.

David J. Novak

United States Magistrate Judge

Richmond, Virginia Date: October 9, 2019